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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/935,255	08/22/2001	Ronald A. Weimer	MTI-31529	1208
31870	7590	03/11/2003	EXAMINER	
WHYTE HIRSCHBOECK DUDEK S.C. 111 E. WISCONSIN AVE. SUITE 2100 MILWAUKEE, WI 53202			CHEN, JACK S J	
ART UNIT		PAPER NUMBER		
2813				
DATE MAILED: 03/11/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.  
09/935,255

Applicant(s)

Weimer

Examiner

Jack Chen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1)  Responsive to communication(s) filed on Dec 17, 2002

2a)  This action is FINAL. 2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

4)  Claim(s) 1-57 and 73-121 is/are pending in the application.

4a) Of the above, claim(s) 18-57 and 73-96 is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) \_\_\_\_\_ is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims 1-17 and 97-121 are subject to restriction and/or election requirement.

### Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.

2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

1)  Notice of References Cited (PTO-892)

4)  Interview Summary (PTO-413) Paper No(s):

2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)

5)  Notice of Informal Patent Application (PTO-152)

3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s):

6)  Other:

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### **DETAILED ACTION**

1. In response to the communications dated December 17, 2002, claims 1-57, 73-121 are active in this application.
2. Claims 18-57, 73-96 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 6.

#### ***Response to Arguments***

3. Applicant's arguments filed December 17, 2002 have been fully considered but they are not persuasive.

Applicant argues that the species would NOT impose a serious burden on the Examiner. The Examiner strongly disagrees because this proposed processes show numerous methods for forming the silicon layer, and the silicon nitride barrier layer as shown in the previous office action dated on 11/19/2002. And this proposed methods for forming the silicon layer, and the silicon nitride barrier layer would require a diversity field of search and it would require undue burdensome search to examine all different species. Furthermore, it is noted that applicant has not responded to the paragraph 5 of the previous action dated on 11/19/2002, which states "Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the

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examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.”

The Examiner thanks applicant for pointing out the possible error regarding claim 80, the corrected species 22 should read “claim 80 drawn to method for forming a silicon layer having specific thickness at a specified low partial pressure”.

In view of the new added claims (claims 97-121), a further restriction requirement is needed. The Examiner apologizes for the inconvenience.

***Election/Restriction***

4. This application contains claims directed to the following patentably distinct species of the claimed invention:

Species 1, claim 99 drawn to method for forming silicon layer by CVD.

Species 2, claim 100 drawn to method for forming silicon layer by RTCVD.

Species 3, claim 101 drawn to method for forming silicon layer by PECVD.

Species 4, claim 102 drawn to method for forming silicon layer by LPCVD.

Species 5, claim 103 drawn to method for forming silicon nitride layer by thermally annealing in nitrogen-containing gas.

Species 6, claim 107 drawn to method for forming silicon nitride layer by using plasma source of nitrogen.

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Species 7, claim 109 drawn to method for forming silicon nitride layer by using remote microwave plasma source of nitrogen.

Species 8, claim 111 drawn to method for forming silicon nitride layer by using inductive couple plasma source of nitrogen.

Species 9, claim 120 drawn to method for forming gate stack by forming barrier layer over the doped polysilicon layer.

Species 10, claim 121 drawn to method for forming gate stack by forming metal silicide layer over the doped polysilicon layer.

5. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 is generic.

6. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

7. Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

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8. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

9. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

10. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(l).

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack Chen whose telephone number is (703) 308-5838. The examiner can normally be reached on Monday-Friday (alternate Monday off) from 8:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Whitehead, Jr., can be reached on (703)308-4940. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9318 for regular communications and 703-872-9319 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0956.

~  
Jack Chen



March 10, 2003